

Application No.: 10/668,725

Docket No.: P-6101

REMARKS

Claims 1-13 are pending in the present application and have been rejected. Claims 1, 3-5, and 11-13 have been amended herein and new claim 14 has been added. Claim 2 has been cancelled. Reconsideration and withdrawal of the rejections are respectfully requested in light of the above amendments and following remarks.

Claims 1-6 and 9-11 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patents No. 5,795,337 to Grimard (hereinafter referred to as "the '337 patent") and U.S. Patent No. 5,899,881 to Grimard et al. (hereinafter referred to as "the '881 patent") (collectively referred to as Grimard). The Examiner states that Grimard discloses a stopper, anti-reflux means, and a projection. The Examiner states that the anti-reflux means disclosed in Grimard includes a conical portion of the stopper having an angle of about 110 degrees and a conically shaped distal walls.

Independent claims 1 and 11 have been amended herein to recite that the anti-reflux means includes the inside surface of the distal wall of the barrel having a total included angle greater than the total included angle of the stopper. The claims have been further amended to recite that the stopper forms a seal with the passageway upon delivery of the fluid to control the stopper deflection. By controlling this stopper deflection, no reflux of liquid is allowed back into the barrel after the delivery of the fluid. In addition, the method claims 12 and 13 have been amended to recite these features as well.

On the other hand Grimard discloses that without discontinuities on the stopper such as ribs 29, the projection 27 of the stopper may have the tendency to block passageway of the barrel before all of the liquid escapes. (See the '337 patent, Col. 4, lns. 35-39). Moreover, Grimard further states that the ribs 29, act to *prevent* the immediate sealing of the passageway 47. (See *Id.*) (emphasis added). With the use of the ribs 29, liquid runs along the ribs and through the passageway. Thus, the ribs temporarily hold the passageway open. (See the '337 patent, Col. 4, lns. 40-45). As such, reflux of fluid into the syringe barrel would occur since the ribs of the stoppers of Grimard actually act to keep the passage open rather than seal the passageway. Additionally, the ribs of Grimard would actually increase the deflection of the stopper, since they run along the entire length of the stopper. This is a desired effect in Grimard to force fluid through the passageway. (See *Id.*).

Application No.: 10/668,725

Docket No.: P-6101

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. §2129 (quoting *Verdeggall Bros. v. Union Oil CO. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). The syringe disclosed in by Grimard fails does not include the anti-reflux means as required in each of amended independent claims 1 and 11-13. Rather Grimard teaches the use of ribs to keep the passageway of the syringe barrel open to allow for fluid to move along the ribs. This would actually increase the reflux of fluid back into the syringe barrel rather than decrease or eliminate reflux as contemplated by the present invention. Since Grimard fails to disclose each of the elements of independent claims 1 and 11-13, it is respectfully submitted that the 35 U.S.C. §102(b) rejection should be withdrawn with respect to these claims.

In addition, claims 3-6 and 9-10 all depend either directly or indirectly from independent claim 1 and therefore include each of the features of claim 1, in addition to other features. Therefore, it is respectfully submitted that the 35 U.S.C. §102(b) rejection should be withdrawn with respect to these claims for at least the reasons set forth above.

Claim has been rejected under 35 U.S.C. §103(a) as being unpatentable over Grimard and claims 7 and 12-13 have been rejected as being unpatentable over Grimard in view of U.S. Patent No. 5,807,374 to Cajza. Claims 7 and 8 depend from claim 1 which is believed to be allowable. As such, it is respectfully submitted that the 35 U.S.C. §103(a) rejection be withdrawn with respect to claims 7 and 8. Moreover, the method claims of 12 and 13 have been amended herein, as discussed above, to include elements not disclosed by Grimard. As such, it is respectfully submitted that claims 12-13 are allowable as well.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (201) 847-6797 in order to overcome any additional objections which he might have.

Application No.: 10/668,725

Docket No.: P-6101

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 02-1666 therefor.

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Respectfully submitted,

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